

ORDINANCE NO. 97-42

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE OF PALM BEACH COUNTY, FLORIDA, ORDINANCE 92-20, AS AMENDED, AS FOLLOWS: AMENDING SEC. 6.4.D.22. OF THE UNIFIED LAND DEVELOPMENT CODE; EXTENDING THE EXISTING ONE HUNDRED AND EIGHTY (180) DAY MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR DEVELOPMENT PERMITS FOR COMMERCIAL COMMUNICATION TOWERS AND TOWER FACILITIES BY SIXTY (60) DAYS; PROVIDING FOR THE TREATMENT OF PENDING APPLICATIONS AND PREVIOUSLY APPROVED COMMERCIAL COMMUNICATION TOWERS AND TOWER FACILITIES; PROVIDING FOR EXCLUSIONS; PROVIDING FOR INTERPRETATION OF CAPTIONS; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Telecommunications Act of 1996, hereinafter referred to as the "Act", was signed into law on February 8, 1996; and

**WHEREAS**, the Act preserves the authority of local governments to make decisions regarding the placement, construction and modification of commercial communication towers and facilities as long as those decisions do not unreasonably discriminate among providers of functionally equivalent services or prohibit or have the effect of prohibiting the provision of personal wireless services; and

**WHEREAS**, passage of the Act, changes in wireless communication technology, additional licenses granted by the Federal Communications Commission and the increased consumer demand for personal wireless services has had the effect of creating a climate of heightened competition among the providers of personal wireless services and numerous providers of personal wireless services have expressed the desire to locate personal wireless communications facilities within the County; and

**WHEREAS**, this increased competition has resulted in an increase in the number of applications for approval of commercial communication towers and facilities in the County; and

**WHEREAS**, the Act further provides that a state or local government shall act on any request for authorization to place, construct, or modify commercial communication towers and facilities within a reasonable period of time after the request is filed with that government; and

**WHEREAS**, the number of potential sites within the County which would be acceptable for the installation of commercial communication towers and facilities is limited; and

**WHEREAS**, the Board of County Commissioners has determined that the current provisions within Unified Land Development Code (ULDC) of Palm Beach County relating to the regulation of the placement and construction of commercial communication towers and facilities are inadequate as they relate to compatibility with surrounding properties, proliferation of towers and ensuring that co-location of antennas is required; and

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Underlined language indicates language proposed to be added.

~~Language struck out~~ indicates language proposed to be deleted.

... (ellipses) indicates language not amended which has been omitted to save space.



1           **WHEREAS**, the County requires time to study the adequacy of its current  
2 regulatory ordinances and to explore and develop modifications or additions to those  
3 ordinances; and  
4

5           **WHEREAS**, the Board of County Commissioners has directed staff to draft any  
6 needed amendments to the ULDC determined to be required to protect the aesthetic,  
7 health, safety and welfare concerns found to exist; and

8           **WHEREAS**, County staff has begun the process of researching and drafting any  
9 such amendments to the ULDC of Palm Beach County; and

10           **WHEREAS**, the Board of County Commissioners has directed staff to participate  
11 in an intergovernmental task force related to the placement of commercial  
12 communication towers and facilities throughout the entire County; and

13           **WHEREAS**, the Board of County Commissioners is desirous of protecting  
14 residential areas from a proliferation of cellular towers while the new regulations are  
15 being drafted; and

16           **WHEREAS**, the Board of County Commissioners has provided for the continued  
17 siting of certain commercial communication towers and facilities to ensure the health,  
18 safety and welfare of the citizens; and

19           **WHEREAS**, the moratorium, together with the continued study, including the  
20 review of the Federal Communication Commission rules, and investigation relating to  
21 the placement of commercial communication towers and facilities, is consistent with the  
22 Act; and

23           **WHEREAS**, the Board of County Commissioners at the April 15, 1997 public  
24 hearing declared its intent to impose a 180 calendar day moratorium, beginning on the  
25 effective date of this ordinance, relating to all applications for the approval of  
26 development permits for commercial communication towers and facilities; and

27           **WHEREAS**, the Board of County Commissioners directed staff to continue  
28 research on tower siting policy related to: monitoring of radio frequency emissions;  
29 increased setbacks from residential areas; installation of towers in residential areas;  
30 and, allowing television towers to be replaced due to public right-of-way acquisition;  
31 and,

32           **WHEREAS**, an extension of the existing moratorium would provide sufficient  
33 time to present additional information and suggest alternatives; and,

34           **WHEREAS**, the Board of County Commissioners at the September 25, 1997  
35 public hearing declared its intent to extend the 180 calendar day moratorium by 60  
36 days, to January 18, 1998, relating to all applications for the approval of development  
37 permits for commercial communication towers and facilities.

38           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
39 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:**

40           **Part 1.** Section 6.4.D.22 is hereby amended to add the following language:

41           Section 6.4.D.22. Communication tower, commercial. **AM/FM** radio, television,  
42 microwave and cellular telephone transmission towers, antennas and accessory

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equipment and buildings. A commercial communication tower use shall comply with the following supplementary use standards: If this section prohibits a government owned tower from being located at a specific site and the tower is required to protect the public welfare or safety, the applicable criteria of this section may be waived or modified by the BCC. In such cases the BCC shall make a finding of fact indicating the justification for the modification.

## **Moratorium**

(A) That the Board of County Commissioners of Palm Beach County does hereby ~~impose a~~ extend the existing one hundred eighty (180) day moratorium ~~beginning on the effective date of this ordinance~~, which began on May 23, 1997, upon the acceptance of all applications for development permits for the approval of commercial communication towers or facilities, by sixty (60) days to January 18, 1998.

If amendments to Section 6.4.D.22 of the ULDC of Palm Beach County are adopted prior to the final date of the extended moratorium, such ordinance shall include a provision repealing this moratorium ordinance.

(B) That this ordinance shall not apply to any legally sufficient application for development permits submitted prior to the effective date of this ordinance, pursuant to Section 6.4.D.22 of the ULDC of Palm Beach County, or the items indicated below in Subpart C.

(C) This ordinance specifically excludes and shall not affect (1) building or roof mounted antennas; (2) camouflage structures; (3) stealth structures; (4) relocation of towers or facilities due to public right-of-way acquisition; (5) new towers for television antennas which are constructed due to the acquisition of public rights-of-way affecting an existing television tower; ~~(5)(6)~~ tower replacement with structures of the same type and height; ~~(6)(7)~~ pole attachments or the placement of antennas, where such attachment or placement does not involve the construction, structural modification or expansion of a tower structure; or ~~(7)(8)~~ publicly owned towers or facilities required to ensure the public safety of the citizens; and ~~(8)(9)~~ the construction of a new tower when the structure will be located at least 2,500 feet from the property line of an existing residential structure. Proposed tower locations consistent with the requirements of this subsection may submit an application for development permit approval subject to the current requirements of the ULDC.

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## **PART 2. CAPTIONS:**

The captions, section headings, and section designations used in this ordinance are intended for the convenience of users only and shall have no effect in the interpretation of the provisions of this ordinance.

## **PART 3. REPEAL OF LAWS IN CONFLICT:**

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.

## **PART 4. SEVERABILITY:**

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1 If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any  
2 reason held by the Court to be unconstitutional, inoperative or void, such holding shall  
3 not affect the remainder of this ordinance.

4 **PART 5. INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE:**

5 The provision of this ordinance shall become and be made a part of the Unified Land  
6 Development Code of Palm Beach County, Florida. The Sections of the ordinance may  
7 be renumbered or relettered to accomplish such, and the word "ordinance" may be  
8 changed to "section," "article," or any other appropriate word.

9 **PART 6. EFFECTIVE DATE:**

10 The provisions of this ordinance shall become effective upon filing with the Department  
11 of State.

12 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach  
13 County, on the 4th day of November, 1997.

14 ATTEST: PALM BEACH COUNTY, FLORIDA,  
15 BY ITS BOARD OF COUNTY COMMISSIONERS  
16 DOROTHY H. WILKEN

17 By: \_\_\_\_\_  
18 Deputy Clerk

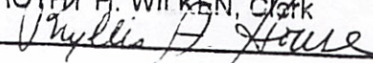
By:   
Chairman

19 APPROVED AS TO FORM AND  
20 LEGAL SUFFICIENCY

21 By:   
22 County Attorney

23 EFFECTIVE DATE: Filed with the Department of State on the 10th day of  
24 November, 1997, at N/A m.

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STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, DOROTHY H. WILKEN, ex-officio Clerk of the  
Board of County Commissioners certify this to be a  
true and correct copy of the original filed in my office  
on 11/4/97  
DATED at West Palm Beach, FL on 11/20/97  
DOROTHY H. WILKEN, Clerk  
By:  D.C.

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# FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM CODRS CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (904)-488-8427 or Suncom 278-8427.

COUNTY: <u>Palm Beach</u>	COUNTY ORDINANCE # <u>(97-42)</u> <small>(e.g., 82-001)</small>
PRIMARY KEYFIELD DESCRIPTOR: <u>Zoning</u>	
SECONDARY KEYFIELD DESCRIPTOR: <u>Building/Development + Regulation</u>	
OTHER KEYFIELD DESCRIPTOR: <u>Building/Development</u> <u>Communication Towers</u>	
ORDINANCE DESCRIPTION: _____ <small>(25 characters maximum including spaces)</small>	
ORDINANCES AMENDED: <small>(List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)</small>	
AMENDMENT # 1: <u>92-20</u>	AMENDMENT # 2: _____
ORDINANCES REPEALED: <small>(List below the ordinances that are repealed by this legislation.)</small>	
REPEAL # 1: _____	REPEAL # 3: _____
REPEAL # 2: _____	REPEAL # 4: _____
<small>(Others repealed: list all that apply):</small> _____	

(FOR OFFICE USE ONLY):	COUNTY CODE NUMBER: (____)
KEYFIELD 1 CODE: (____)	KEYFIELD 2 CODE: (____)
KEYFIELD 3 CODE: (____)	<small>Rev. 10/95</small>